REMARKS/ARGUMENTS

Claims remaining in the present patent application are numbered 1-44. Claims 1-4, 15, 25, and 35 have been amended. No new matter has been added herein as a result of the amendments.

Amendments to the Claims

Claims 1 has been amended to reflect the following (Claims 3-5, 25, and 35 include similarly amended features):

> A method of selecting a media service provider based on static resource information, said method comprising:
>
> identifying a type of service that needs to be performed on an item of content requested by a client device and supplied by a content source before a service result is provided to ~~a~~ said client device, wherein said item of content is identified during a session ~~between~~ with said client device ~~and a service location manager~~, and said type of service is selected from a group of services consisting of processing said item of content and providing an analysis of said item of content;
>
> selecting a service provider of said type of service from a plurality of service providers based on static service provider information and static network information, ~~wherein said selecting a service provider is performed by said service location manager,~~ said selecting of ~~a~~ said service provider of said type of service further based on service session information if said service session information has been received and further based on said identifying said type of service; and
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> providing information for transferring said session to said service provider of said type of service, wherein said service provider of said type of service performs said type of service on said item of content if said type of service is needed.

Support for the amendment, "that needs", can be found at least on page 9, first full paragraph. Support for the amendment, "requested by a client device and supplied by a content

source", can be found at least on page 6, second paragraph, and page 8, third paragraph. Support for the amendment, "~~between~~ with said client device ~~and a service location manager~~", can be found at least on page 8, second through fourth paragraphs. Support for the amendment, "and said type of service is selected from a group of service consisting of processing said item of content and providing an analysis of said item of content", can be found at least on page 9, first full paragraph, through page 10, first paragraph.

The amendment, "of said type of service" was included to clarify the difference between the service provider providing the service and a plurality of service providers. Support for this amendment is found inherently throughout the specification. Support for the amendment, "and further based on said identifying said type of service", can be found at least on page 11, second paragraph.

Claim 2 has been amended to reflect the following (Claim 15 includes similarly amended features):

> A system for providing content to a client device, said system comprising:
> a service location manager that ~~selects~~ performs a selection of a service provider from among a plurality of service providers that is capable of performing a needed type of service on an item of content requested by a client device and supplied by a content source ~~from among a plurality of service providers~~, said selection based on static service provider information and static network information, wherein said type of service is selected from a group of services consisting of processing said item of content and providing an analysis of said item of content, said item of content and type of service to be performed on said item of content are identified during a session ~~between~~ with said client device ~~and said service location manager~~, wherein said type of service is identified before a service result is provided to said client device, said service location manager further selecting said service provider of said type of service based on service session information if said service session information has been received.

Support for these amendments to Claim 2 appear at least on the pages and paragraphs cited above in the description of the support for the amendments to Claim 1.

35 U.S.C. §102(e) Rejections

Claims 1-4, and 15-17 are rejected under 35 U.S.C. §102(e) as being anticipated by Menditto et al. (U.S. Patent No. 6,981,029) (Menditto). Applicants have reviewed Menditto and respectfully submit that embodiments of the present invention are not taught by Menditto.

Claims 1, 3, and 4

Amended Claim 1 recites (Claims 3 and 4 include similarly amended features):

> A method of selecting a media service provider based on static resource information, said method comprising:
>
> identifying a type of service that needs to be performed on an item of content requested by a client device and supplied by a content source before a service result is provided to said client device, wherein said item of content is identified during a session with said client device, and said type of service is selected from a group of services consisting of processing said item of content and providing an analysis of said item of content;
>
> selecting a service provider of said type of service from a plurality of service providers based on static service provider information and static network information, said selecting of said service provider of said type of service further based on service session information if said service session information has been received and further based on said identifying said type of service; and
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> providing information for transferring said session to said service provider of said type of service, wherein said service provider of said type of service performs said type of service on said item of content if said type of service is needed.

(Emphasis added.)

MPEP §2131 provides:

> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference". MPEP §2131; *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 103 (Fed. Cir. 1987). … "The identical invention must be shown in as complete detail as is contained in the … claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). "The elements must be arranged as required by the claim…" *In re Bond*, 910 F.2d 831, 15 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicants respectfully submit that Menditto does not teach either expressly or inherently, "identifying a type of service that needs to be performed on an item of content requested by a client device and supplied by a content source" "wherein said service provider of said type of service performs said type of service on said item of content if said type of service is needed", and "said type of service is selected from a group of services consisting of processing said item of content and providing an analysis of said item of content" (emphasis added) as is recited in amended Claim 1.

Applicants understand Menditto to teach "an information service provider network [that] includes a content gateway to process requests for information from a client terminal" (Menditto, Abstract). "The request includes a domain name and additional content" (Menditto, Abstract). A "selected one of the plurality of processors identifies an information source to satisfy the request in response to the additional content of the request" (Menditto, Abstract).

Significantly, Menditto fails to teach a system that "performs said type of service on said item of content" wherein the "item of content [is] requested by a client device and supplied by a

content source" as is recited in Claim 1. The Office Action mailed April 16, 2008 (hereinafter, "instant Office Action") states that Menditto discloses:

> identifying a type of service to be performed on an item of content before a service result is provided to a client device, wherein said item of content is identified during a session between a client device and a service location manager (col. 12, lines 23-27, a JPEG image request that requires additional processing in a session between a user and a web page, e.g. lfm.com, col. 3 lines 11-16, content gateway intercepts the request and classify the request, classifying HTTP requests at the content gateway according to QoS service…

(Emphasis added; instant Office Action, page 4, section 12.) Whereas Menditto describes an "image request that requires additional processing", Claim 1 describes "identifying a type of service that needs to be performed on an item of content requested by a client device and supplied by a content source". Menditto teaches additional processing of a request, not of content already supplied in response to a request.

Additionally, Menditto remains silent as to "processing said item of content and providing an analysis of said item of content" as is recited in Claim 1.

Applicants respectfully assert that Menditto does not anticipate Applicants' Claim 1. Therefore, Applicants respectfully submit that the rejection of Claim 1 under 35 U.S.C. §102(e) is not proper, and that Claim 1 overcomes the rejection under 35 U.S.C. §102(e) and is in condition for allowance. Additionally, Applicants respectfully submit that the rejection of Claims 3 and 4, that include features similar to Claim 1, under 35 U.S.C. §102(e) is also not proper, and that Claims 3 and 4 overcome the rejection under 35 U.S.C. §102(e) and are in condition for allowance.

Claims 2, and 15-17

Amended Claim 2 recites (Claim 15 includes similarly amended features):

> A system for providing content to a client device, said system comprising:
> a service location manager that performs a selection of a service provider from among a plurality of service providers that is capable of performing a needed type of service on an item of content requested by a client device and supplied by a content source, said selection based on static service provider information and static network information, wherein said type of service is selected from a group of services consisting of processing said item of content and providing an analysis of said item of content, said item of content and type of service to be performed on said item of content are identified during a session with said client device, wherein said type of service is identified before a service result is provided to said client device, said service location manager further selecting said service provider of said type of service based on service session information if said service session information has been received.

(Emphasis added.)

Applicants respectfully submit that Menditto does not teach either expressly or inherently, "a service location manager that performs a selection of a service provider from among a plurality of service providers that is capable of performing a needed type of service on an item of content requested by a client device and supplied by a content source", and "wherein said type of service is selected from a group of services consisting of processing said item of content and providing an analysis of said item of content" (emphasis added) as is recited in amended Claim 1.

For reasons already stated herein, Applicants respectfully assert that Menditto fails to teach a system that "performs said type of service on said item of content" wherein the "item of

content [is] requested by a client device and supplied by a content source" as is recited in Claim 2.

Applicants respectfully assert that Menditto does not anticipate Applicants' Claim 2. Therefore, Applicants respectfully submit that the rejection of Claim 2 under 35 U.S.C. §102(e) is not proper, and that Claim 2 overcomes the rejection under 35 U.S.C. §102(e) and is thus in condition for allowance. Additionally, Applicants respectfully submit that the rejection of Claim 15, that includes features similar to Claim 2, under 35 U.S.C. §102(e) is also not proper, and that Claim 15 overcomes the rejection under 35 U.S.C. §102(e) and is in condition for allowance. Moreover, Applicants respectfully submit that the Claims 16 and 17 depending on Claim 15 are in condition for allowance as being dependent upon an allowable base Claim.

35 U.S.C. §103(a) Rejections

The instant Office Action rejected Claims 5-14 and 18-44 under 35 U.S.C. §103(a) as being unpatentable over Menditto in view of Bochmann et al. (Quality of service management issues in electronic commerce applications) (hereinafter, "Bochmann"). The rejections and comments set forth in the instant Office Action have been carefully considered by the Applicants. Applicants respectfully submit that Claims 5-14 and 18-44 are patentable over Menditto in view of Bochmann for at least the following rationale.

Claims 5-14 and 18-44

Amended Claim 5 (Claims 15, 25, and 35 include similarly amended features) recites:

A method of selecting a media service provider for streaming media based on static resource information, said method comprising:

identifying a type of service that needs to be performed on an item of streaming content requested by a client device and supplied by a content source before a service result is provided to said client device, wherein said item of streaming content is identified during a session with said client device, and said type of service is selected from a group of services consisting of processing said item of content and providing an analysis of said item of content;

selecting a service provider of said type of service from a plurality of service providers based on static service provider information and static network information, said selecting of said service provider of said type of service further based on service session information if said service session information has been received and further based on said identifying said type of service; and

providing information for transferring said session to said service provider of said type of service, wherein said service provider of said type of service performs said service on said item of streaming content if said type of service is needed.

(Emphasis added.)

Applicants respectfully submit that the combination of Menditto and Bochmann does not satisfy the requirements of a *prima facie* case of obviousness because the combination of Menditto and Bochmann as a whole fails to suggest the features of Claims 5-14 and 18-44 as claimed and is therefore not obvious.

"As reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries" including "[a]scertaining the differences between the claimed invention and the prior art" (MPEP 2141(II)). "In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious" (emphasis in

original; MPEP 2141.02(I)). Applicants note that "[t]he prior art reference (or references when combined) need not teach or suggest all the claim limitations. However, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art" (emphasis added; MPEP 2141[III]).

Applicants respectfully submit that Menditto does not suggest "identifying a type of service that needs to be performed on an item of streaming content requested by a client device and supplied by a content source", and "said type of service is selected from a group of services consisting of processing said item of content and providing an analysis of said item of content" (emphasis added) as is recited in amended Claim 5. Furthermore, Applicants respectfully submit that the combination of Menditto and Bochmann fails to suggest the features of Applicants' Claim 5 as a whole because neither Menditto nor Bochmann provide a motivation to modify Menditto to arrive at embodiments of Applicants' invention.

Applicants understand Bochmann to teach "[l]oad balancing between servers" (Bochmann, page 11). Specifically, Bochmann does not suggest "identifying a type of service that needs to be performed on an item of streaming content requested by a client device and supplied by a content source", and "said type of service is selected from a group of services consisting of processing said item of content and providing an analysis of said item of content" (emphasis added) as is recited in amended Claim 5.

Additionally, Applicants respectfully submit that the instant Office Action fails to explain why the differences between Menditto, Bochmann, and Applicants' claimed features would have

been obvious to one or ordinary skill in the art, and that Claim 5 as a whole is not obvious over the combination of Menditto and Bochmann.

Thus, in view of the combination of Menditto and Bochmann not satisfying the requirements of a *prima facie* case of obviousness, Applicants respectfully assert that Claim 5 is patentable. Applicants also respectfully assert that Claims 15, 25, and 35, which include similar features to that of Claim 5, are also patentable. Moreover, Applicants respectfully submit that Claims 6-14 dependent on Claim 5, Claims 18-24 depending on Claim 15, Claims 26-34 depending on Claim 25, and Claims 36-44 depending on Claim 35 are patentable as being dependant upon an allowable base Claim.

CONCLUSION

In light of the amendments and remarks presented herein, Applicants respectfully assert that Claims 1-44 overcome the rejections of record. Therefore, Applicants respectfully solicit allowance of these Claims.

The Examiner is urged to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,
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